

**Notification of Non-Compliance
With 37 CFR 1.192(c)**

Application No.

09/326,308

Applicant(s)

CHU, YI-HWA

Examiner

Gregory J. Strimbu

Art Unit

3634

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 14 June 2002 is defective for failure to comply with one or more provisions of 37 CFR 1.192(c). See MPEP § 1206.

To avoid dismissal of the appeal, applicant must file IN TRIPLICATE a complete new brief in compliance with 37 CFR 1.192 (c) within the longest of any of the following three **TIME PERIODS**: (1) **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer; (2) **TWO MONTHS** from the date of the notice of appeal; or (3) within the period for reply to the action from which this appeal was taken. **EXTENTIONS OF THESE TIME PERIODS MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 1.192(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, pending or cancelled, or does not identify the appealed claims (37 CFR 1.192(c)(3)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 1.192(c)(4)).
4. ☐ The brief does not contain a concise explanation of the claimed invention, referring to the specification by page and line number and to the drawing, if any, by reference characters (37 CFR 1.192(c)(5)).
5. ☒ The brief does not contain a concise statement of the issues presented for review (37 CFR 1.192(c)(6)).
6. ☒ A single ground of rejection has been applied to two or more claims in this application, and
 - (a) ☒ the brief omits the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet presents arguments in support thereof in the argument section of the brief.
 - (b) ☐ the brief includes the statement required by 37 CFR 1.192(c) (7) that one or more claims do not stand or fall together, yet does not present arguments in support thereof in the argument section of the brief.
7. ☒ The brief does not present an argument under a separate heading for each issue on appeal (37 CFR 1.192(c)(8)).
8. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 1.192(c)(9)).
9. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet

GREGORY J. STRIMBU
PRIMARY EXAMINER

Continuation of 9. Other (including any explanation in support of the above items): The appeal brief is defective because the applicant has failed to properly set forth all of the issues the applicant considers to be on appeal. First the applicant fails to set forth the double patenting rejection as an issue on appeal and argues the rejection in the argument section of the brief. Additionally, the applicant does not set forth objections to the specification and yet argues the objections in the argument section of the brief. It should be noted that objections cannot be appealed and should not be included in any subsequent brief. The brief is also defective because the applicant has failed to properly group the claims according to each ground of rejection. For example, the applicant states that claim 21 is separately patentable. However, it is unclear if this statement applies to all of the grounds of rejection or to just one. If the latter is true, it is unclear which ground of rejection the statement applies to. It should be noted that the applicant does not argue claim 21 separately for the double patenting rejection and argues claim 21 separately for the 35 USC 103 rejection. To avoid confusion, it is suggested that the applicant group of each claim for each ground of rejection (this includes claims 20, 36, 26, 27, 39 and 40). Finally, the appeal brief is defective because the applicant has failed to properly argue claims 21 and 37. The applicant has merely pointed out the differences in what the claims cover which is not an argument according to 37 CFR 1.192(c)(8).